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EXAMINER

TOMASZEWSKI, MICHAEL

ART UNIT

PAPER NUMBER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/844,933

Applicant(s)

CHAN ET AL.

Examiner

Mike Tomaszewski

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice To Applicant

1. This communication is in response to the amendment filed on 3/7/07. Claims 1, 21 and 38 have been amended. Claims 1-54 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9, 18-29, 38-46 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Joao* (6,283,761; hereinafter *Joao*), in view of *Campbell et al.* (6,047,259; hereinafter *Campbell*), and in view of *Handee* (Handee, William. "The Perception of Visual Information" 1997. 2nd Edition. Springer Veritag, New York, Inc. p.. 326.; hereinafter *Handee*).

- (A) As per currently amended claim 1, *Joao* discloses a method for managing diseases and wellness online, the method comprising:

- (1) receiving patient data over a network from a user regarding a health condition being experienced by the user (*Joao*: abstract; col. 3, lines 34-45; Fig. 1-15B);
- (2) performing an analysis of the patient data, the analysis including numerical analyses (*Joao*: abstract; col. 17, lines 24-61, col. 19, lines 21-33) (Insofar as Applicant claims “the analysis including one or more of statistical analysis implemented based on a survey among a group of similar people with respect to the health condition in the filtered data, data variability analysis, trend forecasting, significance of data, distribution of data, projection of data, computation of trends, linear and non-linear regression techniques, curve-fitting methods, or numerical analyses,” numerical analyses have been recited.);
- (3) outputting directly to the user, in response to the patient data, a medical recommendation of the health condition based on a second database, that includes medical decision-making intelligent agents, accesses to clinical research information, related health databases or resources controlled by various professional participants, wherein the medical recommendation includes what the user is suggested to do in regarding to the health condition (*Joao*: abstract; col. 4, lines 39-47; Fig. 1-15B);
- (4) alerting automatically through the network related parties (*Joao*: col. 5, lines 7-18); and

- (5) filtered patient data (*Joao*: col. 20, lines 21-27).

Joao, however, fails to expressly disclose a method for managing diseases and wellness online, the method comprising:

- (6) filtering the patient data according to a first database to produce filtered patient data, wherein the filtering of the patient data comprises:
 - (a) discarding some of the patient data that is not so related to the health condition; and
 - (b) requesting correction or verification on some of the patient data with the user when the patient data appears abnormal according to the first database; and
- (7) alerting parties regarding the user if the health condition is deemed to be attended by professionals.

Nevertheless, these features are old and well known in the art, as evidenced by *Hendee and Campbell*. In particular, *Hendee and Campbell* disclose a method for managing diseases and wellness online, the method comprising:

- (6) filtering the patient data according to a first database to produce filtered patient data, wherein the filtering of the patient data comprises;

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- (a) discarding some of the patient data that is not so related to the health condition (*Hendee*: p. 326); and
- (b) requesting correction or verification on some of the patient data with the user when the patient data appears abnormal according to the first database (*Campbell*: col. 9, lines 65-66); and
- (7) alerting parties regarding the user if the health condition is deemed to be attended by professionals (*Campbell*: col. 11, lines 31-56; col. 13, lines 47-51).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *Campbell* with the combined teachings of *Joao* and *Hendee* with the motivation of more effectively managing the administration of healthcare to a patient based on their condition (*Campbell*: col. 1, lines 7-14).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *Hendee* with the combined teachings of *Joao* and *Campbell* with the motivation of improving decision-making in view of a patient's condition (*Hendee*: p. 326).

(B) As per original claim 2, *Joao* fails to expressly disclose the method of claim 1, wherein the receiving of the patient data comprises:

- (1) verifying the user by looking up an account associated with the user;

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- (2) requiring the user to set up the account if the account can not be verified;
and
- (3) composing a number of questions based on the first database in
conjunction with the account if the account can be verified.

Nevertheless, these features are old and well known in the art, as evidenced by *Campbell*. In particular, *Campbell* discloses the method of claim 1, wherein the receiving of the patient data comprises:

- (1) verifying the user by looking up an account associated with the user
(*Campbell*: abstract; col. 6, lines 20-64; Fig. 1-14);
- (2) requiring the user to set up the account if the account can not be verified
(*Campbell*: abstract; col. 6, lines 20-64; Fig. 1-14); and
- (3) composing a number of questions based on the first database in
conjunction with the account if the account can be verified (*Campbell*:
abstract; Fig. 1-14).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *Campbell* with the combined teachings of *Joao* and *Hendee* with the motivation of more effectively managing the administration of healthcare to a patient based on their condition (*Campbell*: col. 1, lines 7-14).

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(C) As per original claim 3, *Joao* discloses the method of claim 2, wherein the account lists the health condition about the user and wherein the first database includes common knowledge database about the health condition, the knowledge database being constantly updated with other related servers on the network (*Joao*: abstract; col. 7, lines 42-48; col. 16, line 33-col. 20, line 20).

(D) As per claim 4, *Joao* discloses the method of claim 3, wherein the patient data includes answers from the user to the questions (*Joao*: abstract; col. 16, line 33-col. 20, line 20; col. 29, lines 15-39).

(E) As per original claim 5, *Joao* discloses the method of Claim 1, wherein the receiving of the patient data comprises receiving diagnostic data from a diagnostic test device (*Joao*: abstract; col. 16, line 3-col. 20, lines 20).

(F) As per original claim 6, *Joao* discloses the method of claim 1, wherein the patient data includes diagnostic data from a diagnostic test device (*Joao*: abstract; col. 16, line 3-col. 20, lines 20).

(G) As per previously presented claim 7, *Joao* discloses the method of claim 1, wherein:

- (1) the first database includes a common knowledge database that is constantly updated with other related servers on the network (*Joao*: abstract; col. 7, lines 42-48; col. 16, line 33-col. 20, line 20).
- (H) As per original claim 8, *Joao* discloses the method of claim 7, wherein the analysis includes a statistical analysis and a medical analysis of the patient data (*Joao*: abstract; col. 17, lines 25-61; col. 20, lines 12-20).
- (I) As per original claim 9, *Joao* discloses the method of claim 8, wherein the performing of the analysis of the patient data comprises:
- (1) obtaining statistical features of the patient data through the statistical analysis (*Joao*: abstract; col. 17, lines 25-61; col. 20, lines 12-20);
- (2) determining possible causes related to the health condition out of the patient data in conjunction with the statistical features (*Joao*: abstract; col. 17, lines 25-61; col. 20, lines 12-20).
- (J) As per previously presented claim 18, *Joao* discloses the method of claim 1, wherein the second database is a medical management knowledgebase including one or more static and dynamic information from multiple sources pertaining to the health condition (*Joao*: abstract; col. 7, lines 42-48; col. 16, line 33-col. 20, line 20).

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(K) As per previously amended claim 19, *Joao* discloses the method of claim 18, wherein the health condition includes one of a disease or a health issue (*Joao*: abstract; col. 7, lines 42-48; col. 16, line 33-col. 20, line 20).

(L) As per previously amended claim 20, *Joao* fails to expressly disclose the method of claim 1, wherein the receiving of the patient data over the network comprises:

- (1) maintaining an account associated with the user; and
- (2) updating the account with the patient data related to the health condition.

Nevertheless, these features are old and well known in the art, as evidenced by *Campbell*. In particular, *Campbell* discloses the method of claim 1, wherein the receiving of the patient data over the network comprises:

- (1) maintaining an account associated with the user (*Campbell*: abstract; col. 6, lines 20-64; Fig. 1-14); and
- (2) updating the account with the patient data related to the health condition (*Campbell*: abstract; col. 6, lines 20-64; Fig. 1-14).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *Campbell* with the combined teachings of *Joao* and *Hendee*

with the motivation of more effectively managing the administration of healthcare to a patient based on their condition (*Campbell*: col. 1, lines 7-14).

(M) As per currently amended claim 21, *Joao* discloses a method for managing diseases and wellness online, the method comprising:

- (1) maintaining an account associated with a user having a health condition (*Joao*: abstract);
- (2) receiving over a network a request from the user to access the account (*Joao*: abstract);
- (3) receiving data from the user in response to the questions, wherein the data includes answers to the questions and/or diagnostic data received from a diagnostic test device pertaining to the health condition (*Joao*: abstract; col. 16, line 3-col. 20, lines 20);
- (4) wherein the first database includes common knowledge database about the health condition and is being constantly updated with other related servers on the network (*Joao*: abstract; col. 7, lines 42-48; col. 16, line 33-col. 20, line 20);
- (5) performing an analysis of the patient data (*Joao*: abstract; col. 17, lines 24-61);
- (6) providing directly to the user a medical recommendation of the health condition based on a second database that includes medical decision-

making intelligent agents, accesses to clinical research information, related health databases and resources controlled by various professional participants, wherein the medical recommendation includes what the user is suggested to do in regarding to the health condition (*Joao*: abstract; col. 4, lines 39-47; Fig. 1-15B);

- (7) alerting related parties (*Joao*: col. 5, lines 7-18); and
- (8) filtered patient data (*Joao*: col. 20, lines 21-27).

Joao, however, fails to expressly disclose a method for managing diseases and wellness online, the method comprising:

- (9) composing a number of questions from the account after the user is authenticated; and
- (10) filtering the patient data according to a first database to produce filtered patient data, wherein the filtering of the patient data comprises:
 - (a) discarding some of the patient data that is not so related to the health condition;
 - (b) requesting correction or verification on some of the patient data with the user when the patient data appears abnormal to the first database; and
- (11) alerting related parties regarding the user if the health condition is deemed to be attended by professionals.

Nevertheless, these features are old and well known in the art as evidenced by *Hendee* and *Campbell*. In particular, *Hendee* and *Campbell* disclose a method for managing diseases and wellness online, the method comprising:

- (9) composing a number of questions from the account after the user is authenticated (*Campbell*: abstract; Fig. 1-14); and
- (10) filtering the patient data according to a first database to produce filtered patient data, wherein the filtering of the patient data comprises:
 - (a) discarding some of the patient data that is not so related to the health condition (*Hendee*: p. 326);
 - (b) requesting correction or verification on some of the patient data with the user when the patient data appears abnormal to the first database (*Campbell*: col. 9, lines 65-66); and
- (11) alerting related parties regarding the user if the health condition is deemed to be attended by professionals (*Campbell*: col. 11, lines 31-56; col. 13, lines 47-51).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *Campbell* with the combined teachings of *Joao* and *Hendee* with the motivation of more effectively managing the administration of healthcare to a patient based on their condition (*Campbell*: col. 1, lines 7-14).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *Hendee* with the combined teachings of *Joao* and *Campbell* with the motivation of improving decision-making in view of a patient's condition (*Hendee*: p. 326).

(N) Previously amended claim 22 substantially repeats the same limitations as those of claim 18 and therefore, is rejected for the same reasons given for claim 18 and incorporated herein.

(O) Previously amended claim 23 substantially repeats the same limitations as those of claim 19 and therefore, is rejected for the same reasons given for claim 19 and incorporated herein.

(P) As per original claim 24, *Joao* discloses the method of claim 21, wherein the account is maintained in a server coupled to the network, and wherein the request is generated from a terminal device being used by the user, the request being an IP request including an address identifying the server (*Joao*: abstract; col. 15, line 17-col. 16, line 33).

(Q) As per original claim 25, *Joao* discloses the method of claim 24, wherein the terminal device is capable of data communication with the server over the network and

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includes a display screen to display the medical recommendation (*Joao*: abstract; col. 15, line 17-col. 16, line 33).

(R) As per original claim 26, *Joao* discloses the method of claim 25, wherein the terminal device is selected from a group consisting of a personal computer, a network enabled cellular phones, a portable computing device and a personal digital assistant (*Joao*: abstract; col. 14, lines 49-58; col. 15, line 17-col. 16, line 33).

Examiner has noted insofar as claim 26 recites, "selected from a group consisting of a personal computer, a network enabled cellular phones, a portable computing device and a personal digital assistant," a personal computer is recited

(S) As per original claim 27, *Joao* discloses the method of Claim 24, wherein the medical recommendation is in a format of a markup language displayable on the terminal device (*Joao*: abstract; col. 15, line 17-col. 16, line 33).

(T) As per original claim 28, *Joao* fails to expressly disclose the method of claim 21, wherein the composing of the number of questions comprises generating the questions about the user in reference to the health condition and further in reference to the first database.

Nevertheless, these features are old and well known in the art, as evidenced by *Campbell*. In particular, *Campbell* discloses the method of claim 21, wherein the composing of the number of questions comprises generating the questions about the

user in reference to the health condition and further in reference to the first database (*Campbell*: abstract; Fig. 1-14).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *Campbell* with the combined teachings of *Joao* and *Hendee* with the motivation of more effectively managing the administration of healthcare to a patient based on their condition (*Campbell*: col. 1, lines 7-14).

(U) Claims 29, 38-46 and 54 substantially repeat the same limitations as those of claims 1-20 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

4. Claims 10-17, 30-37 and 47-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Joao*, in view of *Campbell*, in view of *Handee*, as applied to claim 1 above, and further in view of *Lapointe et al.* (US 2001/0023419; hereinafter *LaPointe*).

(A) As per previously amended claim 10, *Joao* fails to expressly disclose the method of claim 9, wherein the statistical analysis of the patient data includes at least one of a fundamental statistics, a data variability analysis, correlation analysis, causal analysis and a trend forecasting.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 9, wherein the statistical

analysis includes a fundamental statistics, a data variability analysis, and a trend forecasting (*LaPointe*: abstract; ¶¶ [0005], [0023] - [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: ¶ [0020]).

(B) As per original claim 11, *Joao* fails to expressly disclose the method of claim 10, wherein some of the statistical features by the fundamental statistics include mean, mode, max, min, ratios and fractions to determine an appropriate sorting algorithm.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 10, wherein some of the statistical features by the fundamental statistics include mean, mode, max, min, ratios and fractions to determine an appropriate sorting algorithm (*LaPointe*: abstract; ¶¶ [0005], [0023] - [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: ¶ [0020]).

(C) As per original claim 12, *Joao* fails to expressly disclose the method of claim 10, wherein the variability analysis determines how significant the patient data is as well as the patient data is distributed.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 10, wherein the variability analysis determines how significant the patient data is as well as the patient data is distributed (*LaPointe*: abstract; ¶¶ [0005], [0023] - [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: ¶ [0020]).

(D) As per original claim 13, *Joao* fails to expressly disclose the method of claim 10, wherein the trend forecasting includes a projection of the patient data, computation of trends with respect to the patient data using one or more mathematical methods.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 10, wherein the trend forecasting includes a projection of the patient data, computation of trends with respect to the patient data using one or more mathematical methods (*LaPointe*: abstract; ¶¶ [0005], [0023] - [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: ¶ [0020]).

(E) As per previously presented claim 14, *Joao* fails to expressly disclose the method of claim 13, wherein the one or more mathematical methods include one or more of

linear regression techniques, non-linear regression techniques, curve-fitting methods and numerical analyses.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 13, wherein the one or more mathematical methods include one or more of linear and/or non-linear regression techniques, curve-fitting methods and numerical analyses (*LaPointe*: abstract; ¶¶ [0005], [0023] - [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: ¶ [0020]).

(F) As per original claim 15, *Joao* fails to expressly disclose the method of claim 8, wherein the performing of the analysis of the patient data comprises, through the medical analysis, evaluating a state of the health condition using a medically related logic, risk stratification, and protocols/algorithms/guidelines that pertain to the health condition.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 8, wherein the performing of the analysis of the patient data comprises, through the medical analysis, evaluating a state of the health condition using a medically related logic, risk stratification, and protocols/algorithms/guidelines that pertain to the health condition (*LaPointe*: abstract; ¶¶ [0005], [0023] - [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: ¶ [0020]).

(G) As per original claim 16, *Joao* fails to expressly disclose the method of claim 15, wherein the medically related logic is a medical modeling logic that simulates a medical decision-making process and is based on general medical decision making principles.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 15, wherein the medically related logic is a medical modeling logic that simulates a medical decision-making process and is based on general medical decision making principles (*LaPointe*: abstract; ¶¶ [0005], [0023] - [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: par. [0020]).

(H) As per original claim 17, *Joao* fails to *expressly* disclose the method of claim 15, wherein the medically related logic is a medical modeling logic that is based on branch/tree logic and hash or hash-like array memory structures.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 15, wherein the medically related logic is a medical modeling logic that is based on branch/tree logic

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and hash or hash-like array memory structures (*LaPointe*: abstract; ¶¶ [0005], [0023] - [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: ¶ [0020]).

(I) Claims 30-37 substantially repeat the same limitations as those of claims 1-20 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

Response to Arguments

5. Applicant's arguments filed 3/7/07 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 3/7/07.

(A) On page 15 of the 3/7/07 response, Applicant argues that *Joao* does not teach supplying a diagnostic report and treatment report to the patient, whereby the patient can manage his/her diseases and otherwise utilize a self-care mechanism.

In response, Examiner respectfully submits that *Joao* does indeed teach the aforementioned. For example, *Joao* expressly teaches that any patient, user, provider, payer, and/or intermediary, may utilize the present invention (i.e., healthcare system

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with diagnostic reports, treatment reports, etc.) in the same, similar and/or analogous manner (*Joao*: col. 4, lines 31-33).

(B) On page 16 of the 3/7/07 response, Applicant argues that *Campbell* does not teach the two limitations recited in claim 1.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

(C) On page 17 of the 3/7/07 response, Applicant argues that the rejection of claim 1 was improper because there is no motivation to combine the prior art references applied.

In response to applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In the instant case, the motivations to combine the prior art references applied are as follows:

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *Campbell* with the combined teachings of *Joao* and *Hendee* with the motivation of more effectively managing the administration of healthcare to a patient based on their condition (*Campbell*: col. 1, lines 7-14).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *Hendee* with the combined teachings of *Joao* and *Campbell* with the motivation of improving decision-making in view of a patient's condition (*Hendee*: p. 326).

(D) Applicant's remaining arguments in the response rely on or re-hash the issues addressed above and/or relate to prior art references that have not been applied. As such these arguments are rendered moot in view of the responses given above or are rendered moot because the arguments no longer apply.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MT



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